

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DURANE BARROW,

Plaintiff,

Case No. 06-12186

v.

Hon. John Corbett O'Meara

AMICA MUTUAL INSURANCE COMPANY,

Defendant.

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**ORDER DENYING MOTION  
FOR RECONSIDERATION**

Before the court is Defendant's motion for reconsideration, filed December 6, 2007.

Defendant seeks reconsideration of this court's October 26, 2007 order declaring a mistrial and imposing sanctions.<sup>1</sup> The court sanctioned Defendant for using an exhibit at trial that was not listed in the final pretrial order or previously produced to Plaintiff. Defendant requests that the court reconsider this ruling because the exhibit was cumulative to previous witness testimony and not published to the jury, thereby rendering Defendant's failure to disclose the exhibit under the rules harmless.

The standard for granting motions for reconsideration is as follows:

Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration which merely present the same issues ruled upon by the court, either

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<sup>1</sup> The court granted Defendant an extension of time until December 6, 2007, to file its motion for reconsideration, which otherwise would have been due within ten days of the October 26 order.

expressly or by reasonable implication. The movant shall not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case.

LR 7.1(g)(3). Having reviewed the trial transcript and Defendant's motion, the court finds that Defendant has not demonstrated a "palpable defect" by which the court and parties have been misled. Specifically, the court does not agree that Defendant's use of an exhibit that was not previously produced to Plaintiff, without justification, was "harmless." See Order Declaring Mistrial and Sanctions dated October 26, 2007. For the reasons stated in the October 26 order, the court's ruling stands.

Accordingly, **IT IS HEREBY ORDERED** that Defendant's December 6, 2007 motion for reconsideration is **DENIED**.

s/John Corbett O'Meara  
United States District Judge

Date: January 16, 2008

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, January 16, 2008, by electronic and/or ordinary mail.

s/William Barkholz  
Case Manager